

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 28 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

SHREYAS FOUNDATION

Appearance:

MR RP BHATT for Petitioner
MR RK PATEL for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

Date of decision: 26/07/96

ORAL JUDGEMENT

The Tribunal has referred the following questions for the opinion of this Court.

I. R.A. No. 668/Ahd/1985 :-

"Whether, on the facts and circumstances of the

case, the assessee was hit by the provisions of sec. 13(2)(h) of the Income Tax Act, 1961 so that the assessee forfeited the exemption otherwise admissible to it under sec. 11 of the I.T. Act, 1961 ?"

II. R.A. No. 654/Ahd/1985 : -

"Whether, the Tribunal was justified in law in not accepting the contention of the assessee that because of the resolution of the assessee trust dated 13.8.1970, the case of the assessee would be covered by section 10(22) of the Income-Tax Act, 1961 ?"

2. Question No.1 is at the instance of Revenue while the question No.2 is at the instance of assessee. So far as question No.1 is concerned, the same is required to be answered in favour of the assessee and against the revenue in view of the decision of this Court in the case of CIT Vs. Sarladevi Sarabhai Trust No.2 reported in 172 ITR 698 and accordingly we answer the question No.1 in favour of the assessee and against the revenue.

3. So far as question No.2 is concerned, the same is not pressed by the assessee and hence, it is not required to be answered.

4. Answer accordingly with no order as to costs.
